

PART 2101—FREEDOM OF INFORMATION ACT REQUESTS FOR CLASSIFIED DOCUMENTS—PROCESSING, FEES, REPORTS, APPLICABLE MATERIAL, DECLASSIFICATION CRITERIA, PARTIAL RELEASE

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AUTHORITY: E.O. 11652, as amended by Pub. L. 93-502.

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Subpart A—Introduction

§2101.1 The amended Freedom of Information Act.

The amended Freedom of Information Act, Pub. L. 93-502 (5 U.S.C. 552), provided, and to the extent, it is applicable to the National Security Council Staff, provides expanded opportunities for the public to secure the release of classified material under the control of, or of primary interest to, the NSC Staff. The amended Act sets more restrictive time periods within which requests must be processed, modifies the criteria upon which denials of such requests can be based, and permits appeals to district courts of denials of requests. As a result of these changes, modified procedures are required from those followed in the case of requests for the release of classified material over ten years old made under Executive Order 11652. These regulations are intended to guide the NSC Staff response to requests for classified material under the amended Freedom of Information Act, insofar as it is applicable.

§2101.2 Purpose of amended Act.

The underlying purpose of the amended Freedom of Information Act is to insure that the public is informed to the fullest extent possible about governmental policies and actions, consistent with the requirement to protect certain categories of sensitive information. In the case of classified material, the Act is intended to protect the public against the improper classification of information, particularly to conceal inefficiency or administrative error or to prevent embarrassment to a person or department. These goals are fully consistent with the provisions of Executive Order 11652 and the implementing NSC Directive of May 17, 1972, which regulate and control the protection and management of national security information. The provisions of these documents relating to the criteria, authority and procedures for classifying and safeguarding national security material remain unaffected by the amended Act.

**Subpart B—Processing Requests
for Classified Material**

§ 2101.11 Receipt of requests.

(a) Request for classified documents under the FOI Act should be addressed to:

National Security Council
ATTN: Staff Secretary
Old Executive Office Building
Washington, DC 20506

Oral requests received by the Staff Secretary or other members of the NSC Staff will be rejected and the requester informed that his request should be made in writing and directed to the Staff Secretary.

(b) All time limits are based on the date of receipt by the NSC Staff of a request. Consequently, this “key date” must in all cases be accurately recorded.

(c) If a request is misdirected to the NSC Staff, the requestor will be promptly notified in writing.

(d) Requests for declassification of material forwarded by the National Archives and Records Service (or other Agencies) should be submitted with three copies of the requested material attached.

§ 2101.12 Initial processing.

(a) Requested material will be rapidly gathered (when not received with the request) screened, and disseminated to appropriate reviewing officers.

(1) Initial dissemination of material to reviewing officers will be made by the Secretariat, with review by the Staff Secretary.

(2) Material to be reviewed will be disseminated utilizing “highly visible” and clearly distinguishable orange folders.

(3) Deadline for submitting recommendations will be indicated in all cases and must be adhered to.

(b) Dissemination of material to other Agencies for comment will be made by the Staff Secretary to responsible officials of these Agencies.

(c) Strict accounting of status and location of all material disseminated will be maintained by the Secretariat.

§ 2101.13 Requests for time extensions.

(a) Requestors will be promptly notified by the Staff Secretary of a time extension (indicating the new date by which a determination will be dispatched) due to the following three “unusual circumstances”:

(1) Need to search for or collect records from field facilities or other establishments separate from the office of request;

(2) Need to search for, collect and examine voluminous amounts of records;

(3) Need to consult with other agencies because of their having substantial subject-matter interests.

(b) Time extensions will not exceed ten working days in the aggregate, either solely in the initial or the review stage, or divided between them.

(c) The Staff Secretary will authorize all time extensions.

(d) Prior to requesting a court authorized time extension, requestors will be contacted by the Staff Secretary in an attempt to arrange informal agreement on a time extension (any verbal agreement will be quickly formalized in writing).

(e) The Staff Secretary will authorize all requests to courts for time extensions based on “exceptional circumstances” and “due diligence”. Formal approaches to courts for time extensions will be conducted by the Department of Justice.

§ 2101.14 Initial review period.

(a) A total of ten working days is available for submitting an initial response to requests.

(1) Time period allowed reviewing officers will be the maximum period consistent with time required for administrative processing and final review of recommendations and preparation of reply by Staff Secretary.

(2) Reviewing officers will be periodically reminded of approaching due dates in order to insure recommendations are received in a timely manner.

(b) Primary reviewing officers will delegate reviewing authority in the event they are unavailable to conduct reviews.